

BOMBAY ACT No. II OF 1876.¹

[THE BOMBAY CITY LAND-REVENUE ACT, 1876]

[26th October 1876]

Repealed in part, by Bom. 3 of 1886 ;

" " " " " Act 38 of 1920 ;

Amended by Act 16 of 1895 ;

" " Bom. 3 of 1900 ;

" " " 1 of 1910 ;

" " " 4 of 1915 ;

" " " 2 of 1919 ;

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 49 of 1947 ;

" " " 9 of 1949 ;

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 11 of 1952.

" " " 3 of 1954.

" " " 27 of 1954.

" " " 47 of 1954.

An Act to amend the Law relating to the Land-Revenue Administration of the City of Bombay.

WHEREAS it is expedient to amend the law relating to the assessment and collection Preamble, of the land-revenue, to provide against encroachments upon public property, to ensure the preservation of survey-boundary-marks, and otherwise to improve the existing land-revenue administration in the City of Bombay ; It is enacted as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as "The Bombay City Land-Revenue Act, 1876". Short title. It extends only to the City of Bombay. Extent.

2. So much of Regulation XIX of 1827 as has not been already repealed is hereby repealed. Regulation XIX of 1827 repealed.

All references made in any Act or Regulation to any part of the said Regulation XIX of 1827 hereby repealed shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, powers conferred, orders issued, and notifications published under the said Regulation, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, issued and published hereunder.

And all proceedings now pending which have been commenced under any part of the said Regulation XIX of 1827 hereby repealed shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1875, Pt. V. p. 89 ; *ibid.*, 1876, p. 201 ; for Report of the Select Committee, see *ibid.*, 1875, p. 182 and for Proceedings in Council, see *ibid.*, 1875, p. 103, and *ibid.*, 1876, pp. 144, 168, 188 and 211.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context—

¹[(1) "Collector" or "Collector of Bombay" means the Collector of Land-revenue, Customs and Opium, Bombay, or such officer as ²[the ³[State] Government conformably to law may appoint in this behalf ⁴[and, except in section 4, includes any Additional Collector] ;]

(2) the words "land-revenue" signify any sum of money legally claimable by ²[the ³[State] Government] from any person on account of any land, or interest in or right exercisable over, land held by or vested in him, under whatever designation such sum may be payable ;

(3) the words "survey-boundary-mark" mean, primarily, any iron or other mark set up by the officers who conducted the Bombay City Survey hereinafter described and include any such new mark that may hereafter be set up by the Collector or under his orders, according to the provisions of this Act.

⁵[(4) "superior holder" means the person having the highest title under ²[the ³[State] Government] to any land in the City of Bombay ;]

⁶[(5) "Additional Collector" means an Additional Collector appointed under section 5-A].

PART II.

THE COLLECTOR OF BOMBAY AND HIS SUBORDINATES.

Chief control in revenue matters. 4. The chief controlling authority in all matters connected with the land revenue is vested in the Collector of Bombay, subject to the ⁷[⁸[State] Government].

Appointment and duties of the Collector of Bombay. 5. The Collector of Bombay shall be appointed by the ⁷[⁸[State] Government] and shall exercise the powers and discharge the duties conferred and imposed on him by this Act, or by any other law for the time being in force, and, so far as is consistent therewith, all such other powers or duties as may from time to time be prescribed by the ⁷[⁸[State] Government].

Appointment, powers and duties of Additional Collector. ⁸5-A. (1) The State Government may appoint an Additional Collector and such Additional Collector shall be competent to exercise such powers and discharge such duties conferred and imposed on the Collector by or under this Act or any other law for the time being in force as the State Government or the Collector under sub-section (2) or (3) may direct him to exercise or discharge.

¹ The original clause (1) of s. 3 was repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886). The present clause was inserted by the Bombay City Land-Revenue (Amendment) Act, 1900 (Bom. 3 of 1900), s. 1.

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁴ These words were inserted by Bom. 3 of 1954, s. 2 (1).

⁵ Clause (4) of s. 3 was substituted by the Bombay City Land-Revenue (Amendment) Act, 1900 (Bom. 3 of 1900), s. 1.

⁶ This clause was added by Bom. 3 of 1954, s. 2 (2).

⁷ The words "Provincial Government" were substituted for the words "Government in Council" by the Adaptation of Indian Laws Order in Council.

⁸ Section 5-A was inserted by Bom. 3 of 1954, s. 3.

[Provided that such imprisonment shall cease at any time upon payment of the sum due and that it shall in no case exceed—

- (i) a period of six months when the sum due is more than fifty rupees ; and
- (ii) a period of six weeks in any other case.

¹[**13A.** (1) Notwithstanding anything contained in section 13, where any ^{Applicant} ^{immovable property has been sold} ^{under section 13, any person either owning such} ^{to set aside} ^{property or holding an interest therein by virtue of a title acquired before such sale} ^{sale of} ^{Revenue} ^{may within thirty days of such sale apply to the Collector to have the sale set aside,} ^{depositor} ^{Land} ^{on his depositing with the Collector the amount of the revenue due together with the costs of attachment and sale of such property less any amount which may since the date of attachment of such property have been received by the Collector from the defaulter.}

(2) Where such an application is allowed, the Collector shall make an order setting aside the sale :

Provided that no such order shall be made unless notice of the application has been given to all persons affected thereby.

(3) Where the sale of any immovable property is set aside under sub-section (2) the purchaser shall be entitled to repayment of his purchase money with interest.]

^{V of} ^{1908.} ³[**13B.** (1) All such property as is by the Code of Civil Procedure, 1908, exempted from attachment and sale in execution of a decree, shall also be exempt from attachment and sale under section 13. ^{Exemption from attachment and sale.}

(2) The Collector's decision as to what property is so entitled to exemption shall be conclusive.]

⁴[**14.** The Collector's decision upon any question arising out of the provisions of sections 8 to 13 shall, subject to the provisions of section 17, be binding upon all persons whom it may concern, and shall be acted upon accordingly ; but the Collector's decision shall be stayed on any such person giving security to the satisfaction of the Collector that he will, within thirty days from the date when such decision was made known to him, make an appeal before the Bombay Revenue Tribunal for the purpose of contesting the legality of the Collector's decision and will fulfil the order that may be passed against him, and will pay all costs and interest which may be so ordered or that, if he fails to file an appeal as above specified, he will, when required, pay the amount demanded. ^{Collector's decision to be acted in the first instance but may be stayed on security deposited before the Tribunal, failing which he will pay the amount demanded.}

15. All compulsory process against a defaulter shall cease on his paying or tendering the amount demanded of him under protest to the officer executing such process or on his filing an appeal before the Bombay Revenue Tribunal to contest the legality of the demand and furnishing security satisfactory to the Collector or the Bombay Revenue Tribunal that he will pending the decision of the said appeal neither quit the jurisdiction nor remove nor transfer his property therein, without providing to the satisfaction of the Collector or of the Bombay Revenue Tribunal for the execution of the order passed in appeal.] ^{Compulsory process to cease on payment under protest, and if the appeal is filed, and the security is furnished, and the defaulter does not remove or transfer his property, the process will cease.}

16. Fees shall be payable according to the table in the Schedule A ^{5*} * * * ^{Fee in respect of each warrant, and of each day of attachment and sale of the defaulter's property.} on all warrants issued under the provisions of section 13 ^{5*} * * or the attachment and sale of the property of defaulters by the person in respect of whose property such warrants are issued, and an additional fee of four annas per diem shall be paid in like manner in respect of each peon employed, whenever the property distrained is placed in charge of any peon or peons. ^{Additional fee.}

¹ This proviso was substituted for the original by Bom. 47 of 1954, s. 2.

² Section 13A was inserted by Bom. 49 of 1947, s. 3.

³ Section 13B was inserted by Bom. 11 of 1952, s. 2.

⁴ Sections 14 and 15 were substituted for the original by Bom. 27 of 1954, s. 2.

⁵ The words "hereunto annexed" and "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. I of 1904).

[PART IV.]

THE BOMBAY REVENUE TRIBUNAL.

Appeals
before
Bombay
Revenue
Tribunal.

17. (1) An appeal shall lie from any decision or order passed by the Collector or any of his assistants or other subordinates exercising the powers of the Collector under this Act to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

Bom.
XII
of
1939.

(2) Every such appeal before the Bombay Revenue Tribunal shall be filed within a period of thirty days from the date when the decision of the Collector or his assistant or other subordinate was made known to the appellant. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal.

IX of
1908.

(3) In deciding an appeal under sub-section (1), the Bombay Revenue Tribunal shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908.

V of
1908.

(4) The order of the Bombay Revenue Tribunal in any such appeal shall, if it be against the Collector be fulfilled by the Collector. If it be against the appellant it may be enforced by the Collector under section 13 as an established revenue demand.

Court-fees.

18. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal before the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed by rules made under this Act.]

VII of
1870.

PART V.

THE BOMBAY CITY-SURVEY AND BOUNDARY-MARKS.

Bombay
City-survey
recognized.

19. [The latest survey completed under the authority of [the "State] Government] shall be called "the Bombay City-survey"; and the demarcation of lands then made, and all the records of the said survey shall be taken as *prima facie* evidence for all proceedings under and for all the purposes of this Act;

Provided that the Collector may, on the application of the parties interested in such lands, and shall, in pursuance of a decree or order of a competent Court, cause any alteration or correction to be made of any such demarcation of lands, or of any entry in any such record.

Responsi-
bility for
maintenance
and repair of
boundary-
marks.

20. Every superior holder of land shall be responsible for the maintenance and good repair of the survey-boundary-marks of his holding and for any expenses, not exceeding five rupees for each mark, reasonably incurred on account of the same by the Collector in cases of alteration or removal.

Collector or
subordinates
may enter
upon lands.

21. It shall be lawful for the Collector or for any of his assistants or other subordinates in that behalf duly authorised by writing under the hand of the said Collector to enter upon any lands for the purpose of inspecting the survey-boundary-marks erected thereon, or of altering, renewing or repairing such marks.

¹ Part IV was substituted for the original by Bom. 27 of 1954, s. 3.

² These words were substituted for the words and figures "The survey made under the authority of Government during the years 1865 to 1872" by s. 16 of the Bombay City Survey Act, 1915 (Bom. 4 of 1915).

³ The words "the Provincial Government" were substituted for the word "Government" by the adaptation of Indian Laws Order in Council.

⁴ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1909.

PART IX.

PROCEDURE.

36. The provisions of the Civil Procedure Code in force for the time being with respect to the issue of summonses and commissions, and the compelling the attendance of witnesses, and for their remuneration, in suits before a District Court, shall apply to all persons summoned to appear before the Collector under the provisions of this Act.

[Any notice which the Collector or any of his subordinates is by this Act required to be served, or empowered to issue shall be deemed to have been sufficiently served,

(a) if it is addressed to any person and has been

(i) delivered to such person, or

(ii) delivered at his abode and in his absence to any adult male member or servant of his family, or

(iii) sent by post in a letter addressed to him at his last known residence, address or place of business and registered under Chapter VI of the Indian Post Office Act, 1898, or

(b) if the Collector is in doubt as to the person to whom such notice should be addressed or as to the residence, address or place of business of any person on whom it is desired to serve such notice, and

(i) causes the notice to be posted in some conspicuous place on or near the land to which it relates, and

(ii) publishes the notice either in the [Official Gazette] or in such local newspapers as he deems fit or by proclamation on or near such land accompanied with beat of drum.]

PART X.

LEVY OF HOUSE-RENT, FEES, PENALTIES, ETC.

37. [(I)] All arrears of rent payable by any person in respect of the occupation of any house the property of [the Government], and all fees, fines and penalties chargeable under this Act, and all money leviable under the provisions of this Act on account of the value of any land, or on account of the alteration, removal, renewal or repair of survey-boundary-mark, [or on account of the abatement or removal of an encroachment], shall be realized in the same manner as other revenue-demands, under the provisions of section 13 of this Act.

¹ This paragraph was added by s. 7 of the Bombay City Land-revenue (Amendment) Act, 1900 (Bom. 8 of 1900).

² Central Acts.

³ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

⁴ This section was renumbered as sub section () of that section by Bom. 47 of 1954, s. 3.

⁵ The words "the Crown" were substituted for the word "Government" by the Adaptation of Laws order in Council.

⁶ This word was substituted for word "Crown" by the Adaptation of Laws Order, 1950.

⁷ These words were inserted by s. 8 of the Bombay City Land-revenue (Amendment) Act, 1900 (Bom. 8 of 1900).

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Power to
Collector of
Bombay to
assist other
Collectors in
realization
of dues.

¹[(2) All other sums declared by any Act or Regulation or by any rules thereunder or by any agreement or contract with the State Government to be leviable as an assessment or as a revenue demand, or as an arrear of land revenue, shall also be realised in the same manner as revenue demands under the provisions of section 13 of this Act.

²[(3) All persons who may have become sureties for the payment of any sum of money payable under any of the provisions of this Act or for any such contractor as aforesaid shall, on failure to pay the amount or any portion thereof for which they may have become liable under the terms of their security-bond, be liable to be proceeded against under the provisions of section 13 as revenue defaulters and the provisions of section 13 shall, so far as may be, be applicable to such persons.]

³38. It shall be lawful for the Collector of Bombay to levy, in the same way as any arrear of land-revenue due under this Act, any sum certified by the Collector or Assistant or Deputy Collector of any district or collectorate in the Presidency of Bombay to be due and recoverable as an arrear of land-revenue, from any person residing or owning property in the City of Bombay, by whom the same is so certified to be due.

PART XI.

MISCELLANEOUS.

Collector to
keep regis-
ters and
rent-rolls.

³39. It shall be the duty of the Collector to prepare and keep in such form as ²[the ³[State] Government] may from time to time sanction a separate register and rent-roll of every description of land according to the nature and terms of the tenure on which such land is held.

Maps, land-
registers and
records where
to be kept;
to be open to
inspection.

Extracts and
copies to be
given.

Power to
frame and
vary rules
for guidance
of Collector,
etc., and for
matters not
provided for.

⁴40. Subject to such rules and the payment of such fees as the ⁴[³[State] Government] may from time to time prescribe in this behalf, all maps and land registers, and other records of the Bombay City-survey, and all records concerning the land or the land-revenue, shall be kept in the Collector's office, and shall be open to the inspection of the public at reasonable hours; and certified extracts from such maps, registers and records, or certified copies thereof, shall be given to all persons applying for the same.

⁴41. It shall be lawful for the ⁴[³[State] Government] from time to time to frame, and from time to time, to vary or repeal, rules not inconsistent with the provisions of this Act for the guidance of the Collector, and his assistants and other subordinate in the discharge of their duties, or for any other purpose connected with the subject-matter of this Act, not expressly provided for therein.

Any of such rules as the ⁴[³[State] Government] may deem fit may be published, and when published shall, until cancelled or amended by the ⁴[³[State] Government] have the force of law.

¹ These sub-sections were inserted by Bom. 47 of 1954, s. 3.

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁴ The words "Provincial Government" were substituted for the words "Governor in Council", by the Adaptation of Indian Laws Order in Council.

SCHEDULE A.

Table of Fees payable under the provisions of section 16 of this Act.